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Review of “Unions Before the Bar,” By Elias Lieberman

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BOOK REVIEWS

UNIONS BEFORE THE BAR. By Elias Lieberman, New York: Harper and Brothers. 1950. Pp. 371. \$4.50.

Cases involving labor law inevitably provoke interest on the part of the average intelligent layman. What have been the most important cases in this highly controversial field of law? It would certainly be difficult, if not impossible, to obtain complete agreement among lawyers on this question. In *Unions Before the Bar*, Elias Lieberman offers an account of twenty-seven cases together with an evaluation of the Taft-Hartley Act. His reflection is no *pot-pourri* of random cases. Instead, he has picked his cases well to reveal a panoramic view of labor in the courts for almost a century and a half. The author starts with the *Philadelphia Cordwainers* case in 1805—a time when labor unions in some courts were thought of only in terms of a conspiracy. He then, with indefatigable industry and careful legal accuracy, escorts his readers through the balance of selected cases to the now famous John L. Lewis contempt case. He presents cases involving such matters as picketing, wages, injunctions, free speech, and sitdown strikes.

Mr. Lieberman writes for the layman and not for the lawyer. In this he has undertaken a difficult task because it is almost impossible to translate the legal cant into layman's language without sacrificing technical accuracy. The author has done a creditable job in this respect. The layman will not find the book unintelligibly loaded with mystifying legal jargon. Where it has been necessary to use technical words, they have been, for the most part, adequately defined. On the other hand, the cases as presented are technically accurate. In this respect, many lawyers who want a good review, or even a sound introduction, to this phase of the law will be rewarded by reading *Unions Before the Bar*.

The author reaches the conclusion that historically the courts have too frequently been prejudiced against labor. This is no startling conclusion, and many others have held the same opinion, but the author protests a bit too much. Within the first 172 pages of the book, the author restated six times that the courts have been prejudiced against labor. In some of these instances the facts of the case and the action of the court speak for themselves and there is no need to emphasize what is obvious in the particular instance. Perhaps the author believes this undue emphasis was necessary to demonstrate why labor, distrusting the courts, has in recent years devoted greater interest in receiving protection by direct legislative action.

Many readers will undoubtedly classify Mr. Lieberman as partisan to labor. The book, however, evidences the fact that he is critical of labor when he is of the opinion that criticism is due. On page 180, in discussing the case of *Senn v. Tile Layers Protective Union*,¹ involving picketing of a small contractor who depended upon his own manual labor for a livelihood, the author concludes as follows:

1. 301 U.S. 468 (1937).

Means should and can be found of imposing reasonable restrictions on such a contractor's work so that he may not undermine union standards but at the same time not be deprived of earning a livelihood.

Again on page 262 of his book Mr. Lieberman fully criticizes labor organizations for their intolerance and bias towards those of different race, creed or color. In concluding a discussion of the case of *Steele v. Louisville and Nashville Railroad*,² involving racial discrimination and the duty of the majority in a labor union to the minority, the author states:

One would suppose that a group or class which itself has been suffering from suppression and injustice would be likely to be fully sympathetic, sensitive, and responsive to the needs of other minorities which similarly suffer from prejudice. But that is not necessarily the case. The labor movement in the United States, which had been seeking justice and fair play from employers, had to be reminded of the maxim that "he who seeks justice must do justice."

The development of the cases demonstrates that the author possesses a well-trained legal mind. In presenting each case the author analyzes the fundamental issue or issues involved, the contentions of the various parties litigants, the action of the court, the author's conclusion, and his evaluation of the case. The intense drama of the courtroom is not present. One may speculate as to whether the title, "Unions Before the Bar," was not the brainchild of the publisher who understandably was seeking popular appeal.

We may say in conclusion that the author has usefully brought together a group of leading labor cases, amply documented, in an important period of labor history. While not provocative, the book is nevertheless informative.

Nathan B. Kaufman.*

COMPARATIVE LAW, CASES AND MATERIALS. By Rudolph B. Schlesinger. Brooklyn, N. Y.: The Foundation Press, Inc. 1950. Pp. xxxiv, 552. \$7.50.

It is a pleasure to welcome this book to the growing field of comparative literature, particularly since it presents the first concrete attempt to furnish teaching materials "of the kind with which American law students are familiar."¹

A brief glance at the contents reveals that the book is divided into three parts. The first part dealing with the nature of a foreign law problem concerns itself chiefly with proving foreign law in our courts. Professor Schlesinger justifies the inclusion of this matter primarily because this is the usual way the practicing lawyer is first introduced to the rules and principles of the civil law. An idea of the extent of the subject can best be obtained from the following enumeration of some of the more important matters dealt with in this part: Foreign law as a "Fact," Techniques of Proving Foreign Law (e.g. "official" declarations, certificates and certifica-

2. 323 U.S. 192 (1944).

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1. Author's preface p. ix.